U. S. Laws, statutes, etc.

UNITED STATES STATUTES

CONCERNING THE

PROTECTION AND REGISTRATION OF TRADE-MARKS AND LABELS,

WITH THE

RULES OF THE PATENT OFFICE RELATING THERETO.

EDITION OF JANUARY 4, 1892.

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TRADE-MARKS.

AN ACT TO AUTHORIZE THE REGISTRATION OF TRADE-MARKS AND PROTECT THE SAME.

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That the owners of trade-marks used in commerce with foreign nations or with the Indian tribes, provided such owners shall be domiciled in the United States or located in any foreign country or tribes, which, by treaty, convention, or law, affords similar privileges to citizens of the United States, may obtain registration of such trade-marks by complying with the following requirements:

First. By causing to be recorded in the Patent Office a statement specifying name, domicile, location, and citizenship of the party applying; the class of merchandise, and the particular description of goods comprised in such class to which the particular trade-mark has been appropriated; a description of the trade-mark itself, with fac-similes thereof, and a statement of the mode in which the same is applied and affixed to goods, and the length of time during which the trade-mark has been used.

Second. By paying into the Treasury of the United States the sum of twenty-five dollars, and complying with such regulations as may be prescribed by the Commissioner of Patents.

SEC. 2. That the application prescribed in the foregoing section must, in order to create any right whatever in favor of the party filing it, be accompanied by a written declaration verified by the person, or by a member of a firm, or by an officer of a corporation applying, to the effect that such party has at the time a right to the use of the trade-mark sought to be registered, and that no other person, firm, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in commerce with foreign nations or Indian tribes, as above indicated; and that the description and fac-similes presented for registry truly represent the trade-mark sought to be registered.

SEC. 3. That the time of the receipt of any such application shall be noted and recorded. But no alleged trade-mark shall be registered unless the same appear to be lawfully used as such by the applicant in foreign commerce or commerce with Indian tribes, as above mentioned,

or is within the provision of a treaty, convention, or declaration with a foreign power; nor which is merely the name of the applicant; nor which is identical with a registered or known trade-mark owned by another, and appropriate to the same class of merchandise, or which so nearly resembles some other person's lawful trade-mark as to be likely to cause confusion or mistake in the mind of the public, or to deceive purchasers. In an application for registration the Commissioner of Patents shall decide the presumptive lawfulness of claim to the alleged trade-mark; and in any dispute between an applicant and a previous registrant, or between applicants, he shall follow, so far as the same may be applicable, the practice of courts of equity of the United States in analogous cases.

SEC. 4. That certificates of registry of trade-marks shall be issued in the name of the United States of America, under the seal of the Department of the Interior, and shall be signed by the Commissioner of Patents, and a record thereof, together with printed copies of the specifications, shall be kept in books for that purpose. Copies of trade-marks and of statements and declarations filed therewith, and certificates of registry so signed and sealed shall be evidence in any suit in which such trade-marks shall be brought in controversy.

SEC. 5. That a certificate of registry shall remain in force for thirty years from its date, except in cases where the trade-mark is claimed for and applied to articles not manufactured in this country, and in which it receives protection under the laws of a foreign country for a shorter period, in which case it shall cease to have any force in this country by virtue of this act at the time that such trade-mark ceases to be exclusive property elsewhere. At any time during the six months prior to the expiration of the term of thirty years such registration may be renewed on the same terms and for a like period.

SEC. 6. That applicants for registration under this act shall be credited for any fee or part of a fee heretofore paid into the Treasury of the United States with intent to procure protection for the same trade-mark.

SEC. 7. That registration of a trade-mark shall be *prima facie* evidence of ownership. Any person who shall reproduce, counterfeit, copy, or colorably imitate any trade-mark registered under this act and affix the same to merchandise of substantially the same descriptive properties as those described in the registration shall be liable to an action on the case for damages for the wrongful use of said trade-mark at the suit of the owner thereof; and the party aggrieved shall also have his remedy according to the course of equity to enjoin the wrongful use of such trade-mark used in foreign commerce or commerce with Indian tribes, as aforesaid, and to recover compensation therefor in any court having jurisdiction over the person guilty of such wrongful act; and courts of the United States shall have original and appellate jurisdiction in such cases without regard to the amount in controversy.

SEC. 8. That no action or suit shall be maintained under the provisions of this act in any case when the trade-mark is used in any unlawful business or upon any article injurious in itself, or which mark has been used with the design of deceiving the public in the purchase of merchandise, or under any certificate of registry fraudulently obtained.

SEC. 9. That any person who shall procure the registry of a trade-mark, or of himself as the owner of a trade-mark, or an entry respecting a trade-mark, in the office of the Commissioner of Patents, by a false or fraudulent representation or declaration, orally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence thereof to the injured party, to be recovered in an action on the case.

SEC. 10. That nothing in this act shall prevent, lessen, impeach, or avoid any remedy at law or in equity which any party aggrieved by any wrongful use of any trade-mark might have had if the provisions of this act had not been passed.

SEC. 11. That nothing in this act shall be construed as unfavorably affecting a claim to a trade-mark after the term of registration shall have expired; nor to give cognizance to any court of the United States in an action or suit between citizens of the same State, unless the trade-mark in controversy is used on goods intended to be transported to a foreign country, or in lawful commercial intercourse with an Indian tribe.

SEC. 12. That the Commissioner of Patents is authorized to make rules and regulations and prescribe forms for the transfer of the right to use trade-marks and for recording such transfers in his office.

SEC. 13. That citizens and residents of this country wishing the protection of trade-marks in any foreign country, the laws of which require registration here as a condition precedent to getting such protection there, may register their trade-marks for that purpose as is above allowed to foreigners, and have certificate thereof from the Patent Office.

Approved March 3, 1881.

AN ACT RELATING TO THE REGISTRATION OF TRADE-MARKS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That nothing contained in the law entitled "An act to authorize the registration of trade-marks and protect the same," approved March third, eighteen hundred and eighty-one, shall prevent the registry of any lawful trade-mark rightfully used by the applicant in foreign commerce or commerce with Indian tribes at the time of the passage of said act.

Approved August 5, 1882.

RULES AND FORMS ADOPTED BY THE UNITED STATES PATENT OFFICE FOR THE REGISTRATION OF TRADE-MARKS UNDER THE ACT OF MARCH 3, 1881.

UNITED STATES PATENT OFFICE,
Washington, D. C., January 4, 1892.

The following regulations, designed to be in strict accordance with the provisions of the act of March 3, 1881, for the registration of trade-marks, are published for gratuitious distribution.

Applicants for registration and their attorneys are advised that their business will be facilitated by the observance as closely as possible of the appended forms.

W. E. SIMONDS,
Commissioner of Patents.

WHO MAY OBTAIN REGISTRATION.

1. (*a*) Any person, firm, or corporation domiciled in the United States or located in any foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States,* and who is entitled to the exclusive use of any trade-mark and uses the same in commerce with foreign nations or with Indian tribes.

(*b*) Any citizen or resident of this country wishing the protection of his trade-mark in any foreign country the laws of which require registration in the United States as a condition precedent.

STATUTORY REQUIREMENTS.

2. Every applicant for registration of a trade-mark must cause to be recorded in the Patent Office—

(*a*) The name, domicile, and place of business or location of the firm or corporation desiring the protection of the trade-mark, and the residence and citizenship of individual applicants.

(*b*) The class of merchandise and the particular description of goods comprised in such class to which the trade-mark has been appropriated.

(*c*) A description of the trade-mark itself, with fac-similes thereof, and the mode in which it has been applied and used.

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*For a list of the countries having treaties with the United States at this time see page 20.

(*d*) The length of time during which the trade-mark has been used by the applicant on the class of goods described.

3. A fee of $25 is required on filing each application, except in the cases hereinafter named. (See pars. 17 and 18.)

THE APPLICATION.

4. An application for the registration of a trade-mark will consist of a statement or specification, a declaration or oath, and the fac-simile with duplicates thereof. The statement and declaration should be written on one side of the paper only.

5. These should be preceded by a brief letter of advice requesting registration and signed by the applicant.

6. The statement should announce the full name, citizenship, domicile, residence, and place of business of the applicant (or, if the applicant be a corporation, under the laws of what State or nation incorporated,) with a full and clear specification of the trade-mark, particularly discriminating between its essential and non-essential features. It should also state from what time the trade-mark has been used by the applicant, the class of merchandise, and the particular goods comprised in such class to which the trade-mark is appropriated, and the manner in which the trade-mark has been applied to the goods. (See form, p. 13.)

7. The declaration should be in the form of an oath by the person, or by a member of the firm, or by an officer of the corporation, making the application, to the effect that the party has at the time of filing his application a right to the use of the trade-mark described in the statement; that no other person, firm, or corporation has a right to such use, either in the identical form or in such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in lawful commerce with foreign nations or Indian tribes, one or more of which should be particularly named; and that it is truly represented in the fac-simile presented for registry. (See form, p. 14.)

8. This oath may be taken within the United States before a notary public, justice of the peace, or the judge or clerk of any court of record. In any foreign country it may be taken before the secretary of a legation or consular officer of the United States, or before any person duly qualified by the laws of the country to administer oaths, whose official character shall be certified by a representative of the United States having an official seal.*

FAC-SIMILES TO BE FILED.

9. An applicant for registration of a trade-mark must in every case, which admits of it, furnish a drawing thereof which conforms to the rules for drawings of mechanical patents. If for any reason such draw-

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* See Appendix, Rule 46.

ing does not constitute a satisfactory fac-simile of the trade-mark, two copies of the trade-mark, as actually used, must be deposited in addition to the required drawing, to be preserved in the office for reference.

PROCEEDINGS IN THE OFFICE.

10. All applications for registration are considered in the first instance by the trade-mark examiner. An adverse decision by such examiner upon the applicant's right to registration will be reviewed by the Commissioner in person upon petition without fee.

11. No trade-mark will be registered unless it shall be made to appear that the same is used as such by the applicant in commerce between the United States and some foreign nation or Indian tribe, or is within the provisions of a treaty, convention, or declaration with a foreign power, nor which is merely the name of the applicant, nor which is identical with a known or registered trade-mark owned by another and appropriated to the same class of merchandise, or which so nearly resembles some other person's lawful trade-mark as to be likely to cause confusion in the mind of the public or to deceive purchasers, or which is merely descriptive in its nature.

12. The statement may be amended to correct informalities or to avoid objections made by the office, or for other reasons arising in the course of examination; but no amendments will be admitted unless warranted by something in the statement or fac-simile as originally filed. In respect to amendments the established rules in regard to applications for patents will be observed.* The declaration cannot be amended. If that filed with the application is faulty or defective, a substitute declaration may be filed.

13. In case of conflicting applications for registration, or in any dispute as to the right to use which may arise between an applicant and a prior registrant, the office will declare an interference, in order that the parties may have an opportunity to prove priority of adoption or right; and the proceedings on such interference will follow, as nearly as practicable, the practice in interferences upon applications for patents; but each applicant and registrant will be held to the date of adoption alleged in the statement filed with his application. On the petition of any party dissatisfied with the decision of the Examiner of Interferences the case will be reviewed by the Commissioner without fee.

14. When these requirements have been complied with, and the office has adjudged the trade-mark lawfully registrable, a certificate will be issued by the Commissioner, under seal of the Interior Department, to the effect that applicant has complied with the law, and that he is entitled to the protection of his trade-mark in such case made and provided. Attached to the certificate will be a fac-simile of the trade-mark and a printed copy of the statement and declaration.

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* See Appendix, par. 71, *et seq.*

15. The protection for such trade-mark will remain in force for thirty years, and may, upon the payment of a second fee, be renewed for thirty years longer, except in cases where such trade-mark is claimed for and applied to articles not manufactured in this country, and in which it receives protection under the laws of any foreign country for a shorter period, in which case it will cease to have force in this country, by virtue of the registration, at the same time that the trade-mark ceases to be exclusive property elsewhere.

16. The right to the use of any trade-mark is assignable by an instrument in writing, and provision is made for recording such instrument in the Patent Office. But no such instrument or conveyance will be recorded unless the trade-mark shall have first been registered as provided by law; and it must be identified by its certificate number. No particular form of instrument is prescribed.

17. Owners of trade-marks for which protection has been sought by registering them in the Patent Office under the act of July 8, 1870 (declared unconstitutional by the Supreme Court of the United States,) may register the same for the same goods, without fee, on compliance with the foregoing requirements. With each application of this character a specific reference to the date and number of the former certificate is required.

18. Applicants whose cases were filed under the act of 1870, either prior to or since the decision of the Supreme Court declaring it unconstitutional, which are now pending before the office, are advised to prepare applications in conformity with the law and foregoing rules. On the receipt of such an application, referring to the date of the one formerly filed, all fees paid thereon will be duly applied. Those who have paid only $10 as a first fee are advised that the law does not provide for a division of the legal fee of $25, and that the remainder of the entire fee is required before the application can be entertained.

COPIES AND PUBLICATIONS.

19. Printed copies of the statement and declaration in each case, with a duplicate of the trade-mark, can be furnished by the Office.

The Official Gazette of the Patent Office will contain a list of all trade-marks registered, with the name and address of the registrant, an illustration of the trade-mark, a brief statement of its essential features, and the particular description of goods to which it is applied.

FEES.

20. On filing an application for registration of a trade-mark....	$25.00
For abstracts of title:	
For the certificate of search.....	1.00
For each brief from the digests of assignments.....	.20
For copies of matter in any foreign language, for every 100 words or fraction thereof	.10

For translation, for every 100 words or fraction thereof	$0.50
For recording every assignment, agreement, power of attorney, or other paper, of 300 words or under	1.00
For recording every assignment, agreement, power of attorney, or other paper of over 300 words and under 1,000 words	2.00
For recording every assignment, agreement, power of attorney, or other paper of over 1,000 words	3.00
For assistance to attorneys and others in the examination of records, one hour or less	.50
Each additional hour or fraction thereof	.50
For single printed copy of statement and declaration	.10
If certified, for the certificate, additional	.25
Single copy of Official Gazette	.10
Annual subscription Official Gazette	5.00

CORRESPONDENCE.

21. All letters should be addressed to "The Commissioner of Patents;" and all remittances by postal order, check, or draft should be to his order.

22. Letters relating to pending applications should refer to the name of the applicant and date of filing. Letters relating to registered trade-marks must refer to the name of registrant, number or date of certificate, and the class of merchandise to which the trade-mark is applied.

23. The office cannot undertake to respond to inquiries propounded with a view to ascertain whether certain trade-marks have been registered, or, if so, to whom, or for what goods; nor can it give advice as to the nature and extent of the protection afforded by the law, or act as its expounder, except as questions may arise upon applications regularly filed. A copy of these rules with this paragraph marked will be regarded as a courteous answer to all such inquiries.

FORMS.

The following forms illustrate the manner of preparing papers for applications for registration of trade-marks. Their use is not absolutely required, but as they have been made to conform to the conditions of the law, applicants will find their business facilitated by following them closely:

(1) LETTER OF ADVICE.

To the Commissioner of Patents:

The undersigned presents herewith a fac-simile of his lawful trade-mark, and requests that the same, together with the accompanying statement and declaration, may be registered in the United States Patent Office in accordance with the law in such cases made and provided.

A. B.

(2) STATEMENT BY AN INDIVIDUAL.

To all whom it may concern:

Be it known that I, A. B., a citizen of the United States, residing at Baltimore, Maryland, and doing business at No. — —— st., in said city, have adopted for my use a trade-mark for whisky, of which the following is a full, clear, and exact specification:

My trade-mark consists of the word-symbol Moonshine. This has generally been arranged as shown in the accompanying fac-simile, which represents a rude still-house surrounded by hills and forests. Three men are engaged variously about, and the scene is illuminated partly by the light of the fire, partly by the moon, which appears in the heavens. Underneath the picture appears the word "Moonshine" in ornamental letters; but the style of lettering is unimportant, and the entire picture may be omitted or changed at pleasure without materially affecting the character of my trade-mark, the essential feature of which is the word-symbol Moonshine.

This trade-mark I have used continuously in my business since July 4, 1876. The class of merchandise to which this trade-mark is appropriated is distilled liquors, and the particular description of goods comprised in said class upon which I use it is whisky. It is my practice to apply my trade-mark to the bottles containing the liquor by means of suitable labels, on which it is printed in color, as above described. The word is sometimes also blown into the bottles.

A. B.

Witnesses:
C. D.
E. F.

(3) STATEMENT BY A FIRM.

To all whom it may concern:

Be it known that we, C. D. & Co., a firm domiciled in Brooklyn, Kings County, State of New York, and doing business at No. ——— st., in said city, have adopted for our use a trade-mark for men's overalls, of which the following is a full, clear, and exact specification:

Our trade-mark consists of the arbitrary word Teuton. This has generally been arranged as shown in the accompanying fac-simile, in which it appears in plain block capitals, printed in black, in a horizontal line. But other forms of type may be employed, or it may be differently arranged or colored, without materially altering the character of our trade-mark, the essential feature of which is the word Teuton.

This trade-mark has been used continuously in business by us and those from whom we derive our title since July 11, 1840.

The class of merchandise to which this trade-mark is appropriated is wearing-apparel, and the particular description of goods comprised in such class on which it is used by us is men's overalls. It has been our practice to mark our trade-mark on the inside of the waistband of the goods with a stencil, or to print it upon tags which are secured to the goods in any desired manner.

C. D. & Co.

Witnesses:
D. E.
F. G.

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(4) STATEMENT BY A CORPORATION.

To all whom it may concern:

Be it known that the Rocky Mountain Mill Company, a corporation organized under the laws of the State of South Dakota, and located in the city of Garfield, Hancock County, in said State, and doing business in said city of Garfield, and also at Chicago, Illinois, has adopted for its use a trade-mark for wheat flour, of which the following is a full, clear, and exact specification:

The trade-mark of said company consists of a representation of a Rocky Mountain sheep and the words Big Horn. These have generally been arranged as shown in the accompanying fac-simile, in which the animal named, popularly known as the "Big Horn," is represented in an erect attitude upon a cliff or rock. In the back ground are mountains covered with forests, with distant white peaks; upon the sky portion are the words Big Horn, and arranged in a circle about the whole are the words Rocky Mountain Mill Company in plain capital letters. But these words may be omitted, and the various accessories of the picture may be varied at pleasure, or altogether omitted, without materially altering the character of the said trade-mark, the essential features of which are the words Big Horn and the representation of a Rocky Mountain sheep.

This trade-mark has been continuously used by said corporation since about the middle of October, 1884.

The class of merchandise to which this trade-mark is appropriated is flour, and the particular description of goods comprised in such class on which it is used by the said company is wheat flour. It is usually af-

fixed to the goods by printing it on the bags, or stenciling it on the heads of barrels in which the flour is packed.

ROCKY MOUNTAIN MILL COMPANY,
By G. F., *President.*

Witnesses:*
J. H.
L. K.

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(5) DECLARATION.

STATE OF ———, COUNTY OF ———, *ss:*

A. B., being duly sworn, deposes and says that he is the applicant named in the foregoing statement; that he verily believes that the foregoing statement is true; that he has at this time a right to the use of the trade-mark therein described; that no other person, firm, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that it is used by him in commerce between the United States and foreign nations or Indian tribes, and particularly with ——— (*here name one or more foreign nations or Indian tribes, or both, as the case may be;*) and that the description and fac-similes presented for record truly represent the trade-mark sought to be registered.

A. B.

Sworn and subscribed before me, a ———, this —— day of ———, 18—.

G. H., *J. P.*

If the application is made by a firm or corporation, this declaration should be modified accordingly. Thus—

For a firm.

A. B., being duly sworn, deposes and says that he is a member of the firm, the applicant named, etc.; * * * that the trade-mark is used by the said firm in commerce, etc.

For a corporation.

A. B., being duly sworn, deposes and says that he is secretary (*or other officer*) of the corporation, the applicant named in the foregoing statement, etc.; * * * that the trade-mark is used by said corporation in commerce, etc.

(6) AMENDMENT.

To the Commissioner of Patents: In the matter of my application for registration of trade-mark for watches, No. 5319, filed June 11, 1876, I desire to amend my statement as follows:

Page 1, line 16, cancel the words "the arbitrary word Zenith," and insert in the place thereof the following: *the representation of a five-pointed star, having the word Zenith printed across its face.*

Same page, line 20, erase "about four years" and insert *since July 1st*, 1872.

A. B.
By P. & Q.,
His attorneys.

Dated GENEVA, SWITZERLAND, *October* 1, 1876.

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* If the corporation have a seal it may be used to authenticate the signature of the officer.

CIRCULAR.

TRADE-MARKS.

[1890. Department No. 112. Division of Customs.]

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., October 31, 1890.

To Officers of the Customs and Others:

The circular of the 10th instant, No. 92, concerning "trade-marks," is hereby withdrawn, and in lieu thereof the following is prescribed:

The attention of officers of the customs and others is invited to the following provision of Section 7 of the Act of October 1, 1890, viz:

"SECTION 7. That on and after March first, eighteen hundred and ninety-one, no article of imported merchandise which shall copy or simulate the name or trade-mark of any domestic manufacture or manufacturer shall be admitted to entry at any custom-house of the United States. And in order to aid the officers of the customs in enforcing this prohibition, any domestic manufacturer who has adopted trade-marks may require his name and residence and a description of his trade-marks to be recorded in books which shall be kept for that purpose in the Department of the Treasury, under such regulations as the Secretary of the Treasury shall prescribe, and may furnish to the Department fac-similes of such trade-marks; and thereupon the Secretary of the Treasury shall cause one or more copies of the same to be transmitted to each collector or other proper officer of the customs."

Applications for the recording of names or trade-marks in this Department will mention the name and residence of the domestic manufacturer, and furnish a description of the mark and the names of the ports to which the fac-similes should be sent. No such name or trade-mark will be received unless accompanied by the proper proof of ownership, which must consist of the affidavit of the owner or one of the owners, certified by a notary public or other officer entitled to administer oaths and having a seal.

On the receipt by a customs officer of any such fac-similes, with information from the Department that they have been recorded therein, he will properly record and file them, and will exercise care to prevent the entry at the custom-house of any article of foreign manufacture copying or simulating such mark.

No fees are charged for recording trade-marks in the Department and custom-houses.

A sufficient number of fac-similes should be forwarded to enable the Department to send one copy to each port named in the application.

O. L. SPAULDING,
Assistant Secretary.

REGISTRATION OF PRINTS AND LABELS.

Sections 3, 4, and 5 of the act of Congress relating to patents, trade-marks, and copyrights, approved June 18, 1874 (18 Statutes at Large, p. 78,) are as follows:

SEC. 3. That in the construction of this act the words "engraving, cut, and print" shall be applied only to pictorial illustrations or works connected with the fine arts, and no prints or labels designed to be used for any other articles of manufacture shall be entered under the copyright law, but may be registered in the Patent Office. And the Commissioner of Patents is hereby charged with the supervision and control of the entry or registry of such prints or labels, in conformity with the regulations provided by law as to copyright of prints, except that there shall be paid for recording the title of any print or label, not a trade-mark, six dollars, which shall cover the expense of furnishing a copy of the record, under the seal of the Commissioner of Patents, to the party entering the same.

SEC. 4. That all laws and parts of laws inconsistent with the foregoing provisions be and the same are hereby repealed.

SEC. 5. That this act shall take effect on and after the first day of August, eighteen hundred and seventy-four.

The words "prints" and "labels," as used in this act, so far as it relates to registration in the Patent Office, are construed as synonymous, and are defined as any device, picture, word or words, figure or figures (not a trade-mark) impressed or stamped directly upon the articles of manufacture, or upon a slip or piece of paper, or other material, to be attached in any manner to manufactured articles, or to bottles, boxes, and packages containing them, to indicate the contents of the package, the name of the manufacturer, or the place of manufacture, the quality of goods, directions for use, etc.

By the words "articles of manufacture" (to which such print or label is applicable by this act) is meant all vendible commodities produced by hand, machinery, or art.

But no such print or label can be registered unless it properly belongs to an article of commerce, and be as above defined; nor can the same be registered as such print or label when it amounts to a lawful trade-mark, or when its use in connection with the article to which it is applied is arbitrary or fanciful.

To entitle the owner of any such print or label to register the same in this office, it is necessary that five copies of the same be filed, one of

which copies shall be certified under the seal of the Commissioner of Patents, and returned to the registrant.

The certificate of such registration will continue in force for twenty-eight years.

It has been held in a United States circuit court that the use of a label in the sale of the merchandise it is intended to designate prior to the deposit of such label in the Patent Office amounts to a publication thereof (Marsh *et al. v.* Warren *et al.*, XIV O. G., 678.) Since in the same decision the court held that in a suit for infringement of a registered label the bill must aver that the title and label were deposited before publication, it is evident that any such use will vitiate a registration subsequently effected.

The fee for registration of a print or label is $6 to be paid in the same manner as fees for patents.

The benefits of this act seem to have been originally confined to citizens or residents of the United States, but are extended by existing treaties to British, German, Italian, and Belgian subjects.

FORM OF APPLICATION FOR REGISTRATION OF PRINTS AND LABELS.

[Making necessary changes to suit each case.]

For an individual.

To the Commissioner of Patents:

The undersigned, A. B., of the city of Brooklyn, county of Kings and State of New York, and a citizen of the United States (or resident therein, as the case may be,) hereby furnishes five copies of a label (or print, as the case may be,) to be used for ———, of which he is the sole proprietor. The title of said label (or print) is ———, and the said label (or print) consists of the words and figures as follows, to wit: ——— (Description.)

And he hereby requests that the said print (or label) be registered in the Patent Office, in accordance with the act of Congress to that effect approved June 18, 1874.

——— ———,
Proprietor.

BROOKLYN, N. Y., *August 1, 1874.*

For a corporation.

To the Commissioner of Patents:

The applicant, a corporation created by authority of the laws of the State of New York (or other authority, as the case may be,) and doing business at ———, in said State, hereby furnishes five copies of a label (or print as the case may be,) to be used for ———, of which it is the sole proprietor. The title of said print (or label) is ———, and the said label consists of the words and figures as follows, to wit: ——— (Description.)

And it is hereby requested that the said label (or print) be registered in the Patent Office, in accordance with the act of Congress to that effect approved June 18, 1874.

[L. S.] Witness the seal of said corporation at ———, ——, 1874.

———— ————,

President [*or other officer.*]

NOTE.

Important.—The attention of persons contemplating the registry of a label in the Patent Office is called to the decision of the United States Supreme Court in Higgins *v.* Keuffel, (55 O. G., 1139; 140 U. S., p. 428.) If by that decision any margin is left for such registry, it is obviously a very narrow one.

TRADE-MARK TREATIES WITH FOREIGN NATIONS.

The following is a list of the governments with which conventions for the reciprocal registration and protection of trade-marks have been entered into by the United States, with the dates of the respective conventions. For the full text of those which have been published in the Official Gazette reference is made thereto. For others, to the volume and page of United States Statutes at Large. The laws of Switzerland and the Netherlands being so framed as to afford reciprocal privileges to the citizens or subjects of any government which affords similar privileges to the people of those countries, the mere exchange of diplomatic notes, giving notice of the fact, accomplishes all the purposes of a formal convention. The reference to the Official Gazette opposite these nations gives the full text of their trade-mark laws:

Country.	Date.	Reference.
Austria-Hungary	June 1, 1872	Stat., 17, p. 917
Belgium	July 30, 1869	Stat., 16, p. 765
Do	July 9, 1884	O. G., 29, p. 452
Brazil	Sept. 24, 1878	Stat., 21, p. 659
France	Apr. 16, 1869	Stat., 16, p. 771
German Empire	June 1, 1872	Stat., 17, p. 921
Great Britain	July 17, 1878	O. G., 14, p. 233
Italy	Mar. 19, 1884	O. G., 27, p. 304
Russia	June 27, 1868	Stat., 16, p. 725
Servia	Dec. 27, 1882	Stat., 22, p. 966
Spain	Apr. 19, 1883	O. G., 25, p. 98
Switzerland	May 16, 1883	O. G., 23, p. 2237
The Netherlands	Feb. 16, 1883	O. G., 23, p. 1334

The declaration with Great Britian is drawn so as to confer mutual trade-mark rights upon the subjects and citizens of each of the contracting parties throughout the dominions and possessions of the other. Citizens or residents of British colonies are therefore permitted to register their trade-marks under this treaty whenever it is satisfactorily shown that in the respective colonies similar protection is afforded to citizens of the United States.

The following governments are members of the International Union for the Protection of Industrial Property, created by the convention at Paris, of March, 1883, to which the United States acceded in 1887. The

full text of the convention was published in the Official Gazette, May 24, 1887, Vol. 39, p. 960:

Belgium, Brazil, the Dominican Republic, France, Great Britain, Guatemala, Italy, The Netherlands, Norway, Portugal, San Salvador, Servia, Spain, Sweden, Switzerland, Tunis.

The people of the French and Spanish colonies, Dutch East India colonies, and the British colonies of New Zealand and Queensland are entitled to the benefit of this convention.

Appendix.

The following extracts from the Rules of Practice of the Patent Office involve such matter as is general in its application, and to which reference has frequently to be made in actions upon trade-mark cases.

CORRESPONDENCE.

1. All business with the office should be transacted in writing. Unless by the consent of all parties, the action of the office will be based exclusively on the written record. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

2. All office letters must be sent in the name of the "Commissioner of Patents." All letters and other communications intended for the office must be addressed to him; if addressed to any of the other officers they will ordinarily be returned.

3. Express charges, freight, postage, and all other charges on matter sent to the Patent Office must be prepaid in full; otherwise it will not be received.

4. The personal attendance of applicants at the Patent Office is unnecessary. Their business can be transacted by correspondence.

7. When an attorney shall have filed his power of attorney duly executed, the correspondence will be held with him.

8. A double correspondence with the inventor and an assignee, or with a principal and his attorney, or with two attorneys, cannot generally be allowed.

9. A separate letter should in every case be written in relation to each distinct subject of inquiry or application. Assignments for record, final fees, and orders for copies or abstracts must be sent to the office in separate letters.

13. Letters received at the office will be answered, and orders for printed copies filled, without unnecessary delay. Telegrams, if not received before 3 o'clock p. m., cannot be ordinarily answered before the following day.

ATTORNEYS.

17. Any person of intelligence and good moral character may appear as the agent or the attorney in fact of an applicant, upon filing a proper power of attorney, *excepting that no person who has been employed in the Patent Office shall be permitted to appear in any case in connection with which he has taken any action while so employed.* As the value of patents depends largely upon the careful preparation of the specifications and claims, the assistance of competent counsel will in most cases be of advantage to the applicant; but the value of their services will be pro-

portionate to their skill and honesty, and too much care cannot be exercised in their selection. The office cannot assume responsibility for the acts of attorneys, nor can it assist applicants in making selections. It will, however, be unsafe to trust those who pretend to the possession of any facilities except capacity and diligence for procuring patents in a shorter time or with broader claims than others.

18. Before any attorney, original or associate, will be allowed to inspect papers or take action of any kind, his power of attorney must be filed. But general powers given by a principal to an associate cannot be considered. In each application the written authorization must be filed. A power of attorney purporting to have been given to a firm or copartnership will not be recognized, either in favor of the firm or of any of its members, unless all its members shall be named in such power of attorney.

19. Substitution or association can be made by an attorney upon the written authorization of his principal; but such authorization will not empower the second agent to appoint a third.

20. Powers of attorney may be revoked at any stage in the proceedings of a case upon application to and approval by the Commissioner; and when so revoked the office will communicate directly with the applicant, or such other attorney as he may appoint. An attorney will be promptly notified by the examiner in charge of the case of the revocation of his power of attorney. An assignment of an undivided interest will not operate as a revocation of the power previously given; but the assignee of the entire interest may be represented by an attorney of his own selection.

21. Parties or their attorneys will be permitted to examine their cases in the attorneys' room, but not in the rooms of the examiners. Personal interviews with examiners will be permitted only as hereinafter provided. (See Rule 152.)

22. (*a*) Applicants and attorneys will be required to conduct their business with the office with decorum and courtesy. Papers presented in violation of this requirement will be returned. But all such papers will first be submitted to the Commissioner, and only returned by his direct order.

(*b*) Complaints against examiners and other officers must be made in separate communications, and will be promptly investigated.

(*c*) For gross misconduct the Commissioner may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons for such refusal will be duly recorded and be subject to the approval of the Secretary of the Interior.

23. Inasmuch as applications cannot be examined out of their regular order, except in accordance with the provisions of Rule 63, and members of Congress can neither examine nor act in patent cases without written powers of attorney, applicants are advised not to impose upon Senators or Representatives labor which will consume their time without any advantageous results.

OATHS.

47. Ext. * * * When the person before whom the oath or affirmation is made is not provided with a seal, his official character shall be established by competent evidence, as by a certificate from a clerk of a court of record or other proper officer having a seal.

(A certificate of the official character of a magistrate, stating date

of appointment and term of office, may be filed in the Patent Office, which will obviate the necessity of separate certificates in individual cases.)

DRAWINGS.

(Extracts from Rule 51.)

(1) Drawings must be made upon pure white paper of a thickness corresponding to three-sheet Bristol board. The surface of the paper must be calendered and smooth. India ink alone must be used, to secure perfectly black and solid lines.

(2) The size of a sheet on which a drawing is made must be exactly 10 by 15 inches. One inch from its edges a single marginal line is to be drawn, leaving the "sight" precisely 8 by 13 inches. Within this margin all work and signatures must be included. One of the shorter sides of the sheet is regarded as its top, and, measuring downwardly from the marginal line, a space of not less than 1¼ inches is to be left blank for the heading of title, name, number, and date.

(3) All drawings must be made with the pen only. Every line and letter (signatures included) must be absolutely black. This direction applies to all lines, however fine, to shading, and to lines representing cut surfaces in sectional views. All lines must be clean, sharp, and solid, and they must not be too fine or crowded. Surface shading, when used, should be open. Sectional shading should be made by oblique parallel lines, which may be about one-twentieth of an inch apart.

(7) The signature of the inventor should be placed at the lower right-hand corner of the sheet and the signatures of the witnesses at the lower left-hand corner, all within the marginal line, but in no instance should they trespass upon the drawings. (See specimen drawing, page 68, Rules of Practice.) The title should be written with pencil on the back of the sheet. The permanent names and title will be supplied subsequently by the office in uniform style.

When views are longer than the width of the sheet, the sheet should be turned on its side, and the heading will be placed at the right and the signatures at the left, occupying the same space and position as in the upright views, and being horizontal when the sheet is held in an upright position; and all views on the same sheet must stand in the same direction.

(9) Drawings should be rolled for transmission to the office, not folded.

An agent's or attorney's stamp, or advertisement, or written address will not be permitted upon the face of a drawing, within or without the marginal line.

55. Applicants are advised to employ competent artists to make their drawings.

The office will furnish the drawings at cost, as promptly as its draftsmen can make them, for applicants who cannot otherwise conveniently procure them.

No employés of the Patent Office, except those regularly assigned to such duty, shall make any drawings, whether copies or originals, for applicants, agents, or attorneys.

AMENDMENTS AND ACTIONS BY APPLICANTS.

72. After the completion of the application the office will not return the specification for any purpose whatever. If applicants have not

preserved copies of the papers which they wish to amend, the office will furnish them on the usual terms.

The model or drawing, but not both at the same time, may be withdrawn for correction. But a drawing cannot be withdrawn unless a model has been filed and accepted by the examiner as a part of the application.

73. In every amendment the exact word or words to be stricken out or inserted in the application must be specified, and the precise point indicated where the erasure or insertion is to be made. All such amendments must be on sheets of paper separate from the papers previously filed, and written on but one side of the paper.

Erasures, additions, insertions, or mutilations of the papers and records must not be made by the applicant.

Amendments and papers requiring the signature of the applicant must also, in case of assignment of an undivided part of the invention, be signed by the assignee. (Rules 6, 107.)

74. When an amendatory clause is amended it must be wholly rewritten, so that no interlineation or erasure shall appear in the clause, as finally amended, when the application is passed to issue. If the number or nature of the amendments shall render it otherwise difficult to consider the case, or to arrange the papers for printing or copying, the examiner or Commissioner may require the entire specification to be rewritten.

HEARINGS AND INTERVIEWS.

151. Hearings will be had by the Commissioner at 10 o'clock a. m. and by the board of Examiners-in-Chief and the Examiner of Interferences at 1 o'clock p. m. on the day appointed, unless some other hour be specially designated. If either party in a contested case, or the appellant in an *ex parte* case, appear at the proper time he will be heard. After the day of hearing a contested case will not be taken up for oral argument except by consent of all parties. If the engagements of the tribunal having jurisdiction are such as to prevent the case from being taken up on the day of hearing, a new assignment will be made, or the case will be continued from day to day until heard. Unless it shall be otherwise ordered before the hearing begins, oral arguments will be limited to one hour for each party *in contested cases and to one-half hour in other cases.* After a contested case has been argued, nothing further relating thereto will be heard unless upon request of the tribunal having jurisdiction of the case, and all interviews for this purpose with parties in interest or their attorneys will be invariably denied.

152. Interviews with examiners concerning applications and other matters pending before the office must be had in the examiners' rooms, at such times, within office hours, as the respective examiners may designate; in the absence of the primary examiners, with the assistants in charge. Interviews will not be permitted at any other time or place without the written authority of the Commissioner. Interviews for the discussion of pending applications will not be had prior to the first official action thereon.

COPIES, FEES, ETC.

219. An order for a copy of an assignment must give the liber and page of the record, as well as the name of the inventor; otherwise an extra charge will be made for the time consumed in making any search for such assignment.

220. Persons will not be allowed to make copies or tracings from the files or records of the office. Such copies will be furnished, when ordered, at the rates already specified.

221. The money required for office fees may be paid to the Commissioner, or to the Treasurer, or any of the assistant treasurers of the United States, or to any of the depositaries, national banks, or receivers of public money designated by the Secretary of the Treasury for that purpose, who shall give the depositor a receipt or certificate of deposit therefor, which shall be transmitted to the Patent Office. When this cannot be done without much inconvenience, the money may be remitted by mail, and in every such case the letter should state the exact amount inclosed. Letters containing money may be registered. Post-office money orders afford a safe and convenient mode of transmitting fees. All such orders should be made payable to the "Commissioner of Patents."

222. The weekly issue closes on Thursday, and the patents of that issue bear date as of the third Tuesday thereafter. If the final fee in any application is not paid on or before Thursday, the patent will not go to issue until the following week.

223. All money sent by mail, either to or from the Patent Office, will be at the risk of the sender. In no case should money be sent with models. All payments to the office must be made in specie, Treasury notes, national-bank notes, certificates of deposit, post-office money orders, postal notes, or certified checks.

REPAYMENT OF MONEY.

224. Money paid by actual mistake, such as a payment in excess, or when not required by law, or by neglect or misinformation on the part of the office, will be refunded; but a mere change of purpose after the payment of money, as when a party desires to withdraw his application for a patent or for the registration of a trade-mark, or to withdraw an appeal, will not entitle a party to demand such a return.

CLASSIFICATION OF REGISTERED TRADE-MARKS.

1. Agricultural implements. (See Title 41, 73.)
2. Baking powder and yeast.
3. Beverages. (See Title 42.)
4. Blacking and leather dressing. (See Title 12.)
5. Boots, shoes, and lasts. (See Title 57.)
6. Brooms and brushes.
7. Buttons. (See Title 22.)
8. Canned goods. (See Title 16, 26.)
9. Carpets, etc.
10. Cement, plaster, and bricks.
11. Cigars and cigarettes. (See Title 71.)
12. Cleaning and polishing preparations. (See Title 4.)
13. Coffee and tea.
14. Confectionery.
15. Corsets. (See Title 75.)
16. Cured meats. (See Title 8, 26, 37.)
17. Cutlery and edge tools. (See Title 73, 68.)
18. Dairy products.
19. Dentistry.
20. Drugs and chemicals. (See Title 44, 53, 72.)

21. Dry goods. (See Title 22, 69.)
22. Fancy goods. (See Title 7, 21, 30, 47.)
23. Fertilizers.
24. Fire-arms, ammunition, and explosives.
25. Flour.
26. Food and relishes. (See Title 8, 16.)
27. Fuel.
28. Games and toys. (See Title 46.)
29. Glassware. (See Title 32, 55.)
30. Gloves. (See Title 22.)
31. Head-wear.
32. Household articles. (See Title 29, 35, 55.)
33. Inks. (See Title 65.)
34. Iron, steel, and manufactures. (See Title 41, 73.)
35. Jewelry and plated ware. (See Title 32, 70.)
36. Lamps, lanterns, etc. (See Title 29.)
37. Lard and tallow. (See Title 16.)
38. Laundry articles. (See Title 61, 64.)
39. Leather and saddlery.
40. Locks and hardware. (See Title 72, 73.)
41. Machines. (See Title 1, 34, 73.)
42. Malt liquors. (See Title 3.)
43. Matches.
44. Medical compounds. (See Title 20, 53, 72.)
45. Miscellaneous.
46. Musical instruments. (See Title 28.)
47. Needles and pins. (See Title 22.)
48. Oils and lubricants. (See Title 51.)
49. Optics and measuring instruments. (See Title 73.)
50. Packing. (Machinery.)
51. Paints and painters' supplies. (See Title 48.)
52. Paper and envelopes. (See Title 65.)
53. Poisons for animals. (See Title 20, 44.)
54. Publications.
55. Receptacles. (See Title 29, 32.)
56. Rope, cord, and twine. (See Title 59.)
57. Rubber goods. (See Title 5, 69.)
58. Sewing-machines and attachments. (See Title 41, 73.)
59. Sewing silk, cotton, and thread. (See Title 56.)
60. Shirts, collars, and cuffs. (See Title 75.)
61. Soap. (See Title 38, 72.)
62. Spices, mustard, and salt. (See Title 26.)
63. Spirituous liquors. (See Title 42, 77.)
64. Starch, corn-starch, and products. (See Title 26, 38.)
65. Stationery miscellany. (See Title 33, 52.)
66. Stoves and heaters.
67. Sugar, sirup, and molasses.
68. Surgical instruments and appliances. (See Title 17.)
69. Tailoring and clothing. (See Title 21, 57.)
70. Time-keeping instruments. (See Title 35.)
71. Tobacco and snuff. (See Title 11.)
72. Toilet articles and preparations. (See Title 20, 61.)
73. Tools and devices.
74. Umbrellas, parasols, and canes.
75. Underwear and furnishings. (See Title 15, 60.)
76. Vehicles.
77. Wines. (See Title 3, 42, 63.)

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